

- 7 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 7.
9 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 9.
10 Figures 1, 2, and 3 and original claim 10.
12 Page 9, line 29 to page 10, line 11 and Original claim 12
13 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claims 1-
12.
14 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 14.
15 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 14.
17 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 17.
18 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 17.
19 Page 8, line 7 to Page 9, line 25, Figures 1, 2, and 3 and original claim 19.
21 Page 9, line 10 to 25, Figures 1, 2, and 3 and original claim 21.

Enclosed is a complete set of the amended claims showing the changes made by the above amendments.

If for any reason there is a discrepancy between the amendments contained in this paper and the enclosed marked-up claim set, the amendments of this paper are to be controlling.

The claims and amended claims are submitted as being clearly distinct and patentable over the art of record and therefore their entry and allowance by the Examiner is requested.

IN RESPONSE TO THE OFFICE ACTION:

FIRST REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH:

Claims 1-21 were rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite and filing to particularly point out the Applicant's invention.

In response, the claims have been amended so as to the specific concerns indicated by the Examiner in the Office Action. Specifically, in claim 1 the phrase "the position" has been amended to "positioning". In claims 2, 9 and 14, the term "its" has been removed and replaced with the proper noun for object being referenced. In claims 3, 7 and 13 proper antecedent basis has been provided for. In claims 10 and 19 the term "or" has been replaced with the

grammatically equivalent phrase "and". In claim 12 the phrase "a receptacle" has been replaced with the equivalent "the receptacle" based on the antecedent basis provided in claim 1.

Applicant submits that the above amendments obviate the rejection of the claims under 35 U.S.C. §112, second paragraph and thus ask that the Examiner reconsider and withdraw the rejection of the claims and indicate their allowance in the next paper from the Office.

FIRST REJECTION UNDER 35 U.S.C. § 102:

Claims 13-16 has been rejected under 35 U.S.C. §102 as allegedly being anticipated by U.S. Patent No. 1,865,757 issued to Honsowetz (the Honsowetz reference). In response, Applicant requests that the Examiner reconsider and withdraw the rejection in view of the following:

1. For there to be anticipation under 35 U.S.C. §102, "each and every element" of the claimed invention must be found either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and references cited therein. See also *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986) ("absence from the reference of any claimed element negates anticipation."); *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). As pointed out by the court, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention. *ATD Crop. V. Lydall, Inc.*, 159 F.3d 534, 545, 48 USPQ 2d 1321, 1328 (Fed. Cir. 1998). See also *In re Spada*, 911 F.2d 705, 708, 15 USPQ 2d 1655, 1657 (Fed. Cir. 1990).

2. The Honsowetz reference is directed to a medical fluids receptacle bed tree adapted to be mounted on the bedstead and capable of being folded to an out of the way position when not in use and capable of being quickly re-extended for use as needed. (Col. 1, lines 8-14) As shown in the Figures, especially figures 1, 3 and 4, the disclosed bed tree is pivotably mounted on one end to a clamp so that it may be easily collapsed from a vertical position and the clamp is designed so

that the collapsed bed tree can be rotated into a position that overlaps with the bedstead and thus is substantially out of the way when it is not in use. The arms from which a medical fluids receptacle may be support / hung are similarly collapsible by rotation and insertion into a portion of the upright bed tree support.

3. In contrast the present invention is directed to a support stand for a medical fluids receptacle that has a clamp that secures and arm in a manner so that the arm is movable with respect to the clamp, thereby allowing the positioning of a support within at least three directional planes of motion with respect to the clamp. Further as is specifically recited in independent claim 13, the arm has a first arm portion and a second arm portion that are substantially perpendicular to each other.

4. Applicant submits that nowhere in the Honsowetz reference is there any teaching or suggestion of the present invention. Specifically, nowhere is there any teaching or suggestion that the arm of the support stand have a first arm portion and a second arm portion that are substantially perpendicular to each other. As is clearly shown in the Honsowetz reference, the first arm (15) and the second arm (16) are coaxially aligned so that the second arm is capable of collapsing within the first arm. Thus, Applicant submits that the Honsowetz reference fails to disclose each and every aspect of the claimed invention.

5. Claims 14-16 are all dependent upon independent claim 13, therefore each of these claims incorporates by reference all the limitations of claim 13. Thus Applicant submits that dependent claim 14-16 are not anticipated by the Honsowetz reference for the same reasons that claim 13 is no anticipated by the Honsowetz reference.

In view of the above, Applicant requests the reconsideration and withdrawal of the rejection of claims 13-16 under 35 U.S.C. §102 and ask that the Examiner indicate the allowance of these claims in the next paper from the Office.

FIRST REJECTION UNDER 35 U.S.C. § 103:

Claims 1-5, and 10-12 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable given U.S. Patent No. 4,547,092 issued to Vetter (the Vetter reference) in view of U.S. Patent No. 2, 957,187 issued to Raia (The Raia reference).

Applicants request that the Examiner reconsider and withdraw the above rejection of the claims in view of the following:

1. A determination under 35 U.S.C. §103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. *In re Mayne*, 104 F.3d 1339, 1341, 41 USPQ 2d 1451, 1453 (Fed. Cir. 1997). An obviousness determination is based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), see also *Robotic Vision Sys., Inc. v. View Eng'g Inc.*, 189 F.3d 1370, 1376, 51 USPQ 2d 1948, 1953 (Fed. Cir. 1999)
2. In line with this standard, case law provides that "the consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art." *In re Dow Chem.*, 837 F.2d 469, 473, 5 USPQ 2d 1529, 1531 (Fed. Cir. 1988). Two requirements are contained in this criterion.
3. The first requirement is that a showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." *C.R. Bard, Inc. v. M3 Sys. Inc.*, 157 F.3d 1340, 1352, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998). This evidence may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved. *Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc.*, 75 F.3d 1568, 1573, 37 USPQ 2d 1626, 1630 (Fed. Cir. 1996). However, the suggestion more often comes from the teachings of the pertinent references. *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ 2d 1453, 1459 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." *In re Dembiczak*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1617. However, the suggestion to combine need not be express and "may come from the prior art, as filtered through the knowledge of one skilled in the art." *Motorola, Inc. v. Interdigital Tech. Corp.*, 121 F.3d 1461, 1472, 43 USPQ 2d 1481, 1489 (Fed. Cir. 1997).

4. The second requirement is that the ultimate determination of obviousness "does not require absolute predictability of success... All that is required is a reasonable expectation of success." *In re O'Farrell*, 853 F.2d 894, 903-904, 7 USPQ 2d 1673, 1681 (Fed. Cir. 1988); see also *In re Longi*, 759 F.2d 887, 897, 225 USPQ 645, 651-52 (Fed. Cir. 1985). Each obviousness determination rests on its own facts. *In re Mayne*, 104 F.3d 1339, 1341-2, 41 USPQ 2d 1451, 1453 (Fed. Cir. 1997).

5. The examiner bears the burden of establishing a prima facie case of obviousness. *In re Deuel*, 51 F.3d 1552, 1557, 34 USPQ 2d 1210, 1214 (Fed. Cir. 1995). The burden to rebut a rejection of obviousness does not arise until a prima facie case has been established. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993). Only if the burden of establishing a prima facie case is met does the burden of coming forward with rebuttal argument or evidence shift to the applicant. *In re Deuel*, 51 F.3d 1552, 1553, 34 USPQ 2d 1210, 1214 (Fed. Cir. 1995), see also *Ex parte Obukowicz*, 27 USPQ 2d 1063, 1065 (B.P.A.I. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992)

6. The Vetter reference is generally directed to a clamp for releasably and adjustably securing accessories, such as hanger rods, to medical tables. As is shown in Figure 1, the clamp is designed to slide horizontally along the table while providing a secure connection to a support rod. The support rod may be rotated radially relative to the clamp as well as adjusted axially along the length of the rod. Thus the clamp provides two planes of motion for the support rod relative to the clamp.

7. The Raia reference is generally directed to a telescopic stand that is designed to support medical fluids receptacles. One end of the telescopic stand is designed to be inserted into holes present in the railing of a bedstead. (Col. 2, lines 17-33).

8. Applicant submits that nothing in the art of record teaches or suggests the present invention. As positively recited in independent claim 1, the present invention is directed to an apparatus that includes a clamp for removably securing the apparatus to an object to allow the object to support the apparatus, an arm extending from the clamp; a support connected to the arm

for retaining a receptacle containing medical fluids. The present invention is designed such that the arm is movable with respect to the clamp, thereby allowing the positioning of the support within at least three directional planes of motion with respect to the clamp.

9. Applicant submits that the Vetter reference, the Raia reference or any combination of the two fails to teach or suggest the present invention. Specifically, the Vetter reference fails to teach or suggest an arm is movable with respect to the clamp, thereby allowing the positioning of the support within at least three directional planes of motion with respect to the clamp. Further, the Raia reference clearly teaches the support rod is fixed in position and may only be used by physically disconnecting the rod from the bed and reinserting the rod in a different location. Further the rod, being telescopic, provides only one plane of motion (i.e. vertical movement up and down) with respect to the bed. One of skill in the art would appreciate that the same effect can be achieved with a non-telescoping rod by axially moving the vertical rod in the clamp of Vetter. Therefore this is not a separate and discrete plane of motion not already disclosed by the Vetter reference.

10. Thus, Applicant submits that the Vetter reference and Raia reference, either separately or in combination with each other, fail to disclose fail to teach or suggest to one of skill in the art the claimed invention.

11. Claims 2-12 are all claims dependent upon independent claim 1, therefore each of these claims incorporates by reference all the limitations of claim 1. Thus Applicant submits that dependent claim 2-12 are not unpatentable by the Vetter reference or the Raia reference, alone or in combination with each other, for the same reasons that claim 1 is not obvious given the two references.

Given the above, Applicant requests that the rejection of claims 1-5, 10-12 under 35 U.S.C. §103(a) be reconsidered and withdrawn and that the Examiner indicate the allowance of the claims in the next paper from the Office.

SECOND REJECTION UNDER 35 U.S.C. § 103:

Claims 13, and 17 to 21 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable given U.S. Patent No. 4,547,092 issued to Vetter (the Vetter reference) in view of U.S. Patent No. 2, 957,187 issued to Raia (The Raia reference).

Applicants request that the Examiner reconsider and withdraw the above rejection of the claims in view of the following:

1. The applicable case law for a rejection under 35 U.S.C. §103 has been discussed above in the response to the first rejection under 35 U.S.C. §103. In the interests of brevity, Applicant requests the Examiner to note the above sections and consider that material incorporated herein by reference.
2. The Vetter reference is generally directed to a clamp for releasably and adjustably securing accessories, such as hanger rods, to medical tables. As is shown in Figure 1, the clamp is designed to slide horizontally along the table while providing a secure connection to a support rod. The support rod may be rotated radially relative to the clamp as well as adjusted axially along the length of the rod. Thus the clamp provides two planes of motion for the support rod relative to the clamp.
3. The Raia reference is generally directed to a telescopic stand that is designed to support medical fluids receptacles. One end of the telescopic stand is designed to be inserted into holes present in the railing of a bedstead. (Col. 2, lines 17-33).
4. In contrast the present invention as recited in independent claim 13 is directed to a support stand for a medical fluids receptacle that has a clamp that secures and arm in a manner so that the arm is movable with respect to the clamp, thereby allowing the positioning of a support within at least three directional planes of motion with respect to the clamp. Further as is specifically recited in independent claim 13, the arm has a first arm portion and a second arm portion that are substantially perpendicular to each other.
5. Applicant submits that nowhere in either the Vetter reference or the Raia reference is there any teaching or suggestion of the present invention. Specifically, nowhere is there any teaching or suggestion that the arm of the support stand have a first arm portion and a second arm portion that are substantially perpendicular to each other. As is clearly shown in the Raia reference, the arms of the support are coaxially aligned so that the support is capable of

telescopically collapsing. Thus, Applicant submits that the combination of the Vetter and Raia references fail to teach or suggest the claimed invention.

6. Claims 17-21 are all claims dependent upon independent claim 13, therefore each of these claims incorporates by reference all the limitations of claim 13. Thus Applicant submits that dependent claim 17-21 are not unpatentable by the Vetter reference or the Raia reference, alone or in combination with each other, for the same reasons that claim 13 is not obvious given the two references.

Given the above, Applicant requests that the rejection of claims 13 and 17-21 under 35 U.S.C. §103(a) be reconsidered and withdrawn and that the Examiner indicate the allowance of the claims in the next paper from the Office.

THIRD REJECTION UNDER 35 U.S.C. § 103:

Claims 6-9 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable given U.S. Patent No. 4,547,092 issued to Vetter (the Vetter reference) in view of U.S. Patent No. 4,042,232 issued to Lile (the Lile reference).

Applicant requests that the Examiner reconsider and withdraw the above rejection of the claims in view of the following:

1. The applicable case law for a rejection under 35 U.S.C. §103 has been discussed above in the response to the first rejection under 35 U.S.C. §103. In the interests of brevity, Applicant requests the Examiner to note the above sections and consider that material incorporated herein by reference.
2. The Vetter reference is generally directed to a clamp for releasably and adjustably securing accessories, such as hanger rods, to medical tables. As is shown in Figure 1, the clamp is designed to slide horizontally along the table while providing a secure connection to a support rod. The support rod may be rotated radially relative to the clamp as well as adjusted axially along the length of the rod. Thus the clamp provides two planes of motion for the support rod relative to the clamp.
3. The Lile reference is generally directed to a support stand that is designed to support a sling support for a patient's arms or legs during surgery. Horizontal adjustment of the support is

achieved by movement of the clamp relative to the table and the patient. Vertical adjustment is achieved by a telescopic and coaxial supports. Finally the support may be axially rotated relative to itself to provide a further degree of motion.

4. Claims 6-9 are dependent claims all dependent upon independent claim 1, thus, all the limitations of claim 1 are incorporated by reference into claim 6-9. As positively recited in independent claim 1, the present invention is directed to an apparatus that includes a clamp for removably securing the apparatus to an object to allow the object to support the apparatus, an arm extending from the clamp; a support connected to the arm for retaining a receptacle containing medical fluids. The present invention is designed such that the arm is movable with respect to the clamp, thereby allowing the positioning of the support within at least three directional planes of motion with respect to the clamp.

5. Applicant submits that nowhere in either the Vetter reference or the Lile reference is there any teaching or suggestion of the present invention as recited in independent claim 1 and thus in dependent claims 6-9. Specifically, nowhere is there any teaching or suggestion that the arm of the support be movable with respect to the claim thereby allowing the positioning of the support within at least three directional planes of motion with respect to the clamp. As noted above, the clamp disclosed in the Vetter reference provides a vertical plane of motion and a radial plane of motion. In both the Vetter reference and the Lile reference horizontal motion of the support is provided by the movement of the clamp relative to the table. Thus, Applicant submits that the combination of the Vetter and Lile references fail to teach or suggest the claimed invention.

Given the above, Applicant requests that the rejection of claims 6-9 under 35 U.S.C. §103(a) be reconsidered and withdrawn and that the Examiner indicate the allowance of the claims in the next paper from the Office.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 01-2508, referencing Order No. 12929.0061.NPUS00.



Serial No.: 09/849,907
Confirmation No.: 9112
Applicant: NGUYEN, Van
Atty. Ref.: 12929.0061.NPUS00

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Carter J. White'.

Carter J. White

Patent Attorney

Reg. No. 41374

Tel. 713 268 1372

Date: 30 Jan 03

MARKED-UP CLAIMS SHOWING AMENDMENTS

1. (Amended) An apparatus for supporting medical fluids for delivery to a patient during surgery, the apparatus comprising:

a clamp for removably securing the apparatus to an object to allow the object to support the apparatus, the object being immovable relative to the patient to ~~which~~ whom the fluids are to be delivered;

an arm extending from the clamp;

a support connected to the arm remote from the clamp, the support being adapted to retain a receptacle containing medical fluids;

the arm being movable ~~longitudinally~~ with respect to the clamp, thereby allowing the positioning of the support within at least three directional planes of motion with respect to the clamp ~~to be adjusted~~.

2. (Amended) An apparatus as claimed in claim 1, wherein the arm has a first longitudinal axis and wherein the arm is radially rotatable in a plane of motion about its the first longitudinal axis with respect to the clamp.

3. (Amended) An apparatus as claimed in claim 1, wherein the arm has a first longitudinal axis, and wherein the arm is radially rotatable about the clamp in a plane containing the first longitudinal axis of the arm.

4. (Amended) An apparatus as claimed in claim 1, wherein the ~~support is mounted on a rod, the rod being mounted to an end of the arm remote from the clamp and movable with respect to the end of the arm~~ the arm has a longitudinal axis, and wherein the arm is axially movable along the first longitudinal axis and horizontally with respect to the clamp.

5. (Amended) An apparatus as claimed in claim 4, wherein the support is mounted on a rod, the rod being mounted to an end of the arm remote from the clamp, and wherein the rod is moveable with respect to the end of the arm, and wherein the rod extends telescopically within the arm.

6.(Amended) An apparatus as claimed in claim 1, wherein the arm comprises a first portion extending from the clamp and a second portion extending from the first portion substantially perpendicular to the first portion, wherein the first portion of the arm has a first longitudinal axis and the second portion of the arm has a second longitudinal axis and wherein the first longitudinal axis is substantially perpendicular to the second longitudinal axis.

7. (Amended) An apparatus as claimed in claim 6, wherein the first portion of the arm is rotatable about the clamp within a plane containing the first longitudinal axis of the first portion.

9. (Amended) An apparatus as claimed in claim 7, wherein the first portion of the arm is rotatable about ~~it's~~ the first longitudinal axis with respect to the clamp.

10. (Amended) An apparatus as claimed in claim 1, wherein the object is an item of surgical furniture selected from a surgical table ~~or~~ and surgical bed, upon which a patient lies.

12. (Amended) An apparatus as claimed in claim 1, wherein the support is adapted to retain ~~a~~ the receptacle containing medical fluids for delivery to the patient intravenously.

13. (Amended) An apparatus for supporting receptacles ~~for~~ containing medical fluids for intravenous delivery to a patient, the apparatus comprising:

a clamp for releasably securing the apparatus to an item of ~~surgical~~ furniture;
a first arm portion extending from the clamp, wherein the first arm portion has a first longitudinal axis;

a second arm portion extending from the first arm portion, wherein the second arm portion has a second longitudinal axis perpendicular to the first longitudinal axis; and

- a ~~fluid~~ receptacle support mounted on the second arm portion;
- wherein the first arm portion and second arm portion are movable with respect to the clamp such that the ~~fluid~~ receptacle support may be moved within a plane containing the first longitudinal axis ~~of the first arm portion~~ and the second longitudinal axis ~~of the second arm portion~~.
14. (Amended) An apparatus as claimed in claim 13, wherein the first arm portion is rotatable about ~~it's~~ the first longitudinal axis with respect to the clamp.
15. (Amended) An apparatus as claimed in claim 13, wherein the first arm portion is rotatable about the clamp in a plane containing the first longitudinal axis of the first arm portion.
17. (Amended) An apparatus as claimed in claim 13, wherein the ~~fluid~~ receptacle support is mounted on a support rod, the support rod being axially mounted to ~~an end of~~ the second arm portion and movable with respect to the end of the second arm portion.
18. (Amended) An apparatus as claimed in claim 17, wherein the support rod extends telescopically within the second arm portion.
19. (Amended) An apparatus as claimed in claim 13, wherein the item of surgical furniture is selected from a surgical table ~~or~~ and surgical bed, upon which a patient lies.
21. (Amended) An apparatus as claimed in claim 13, wherein the receptacle support ~~is adapted to retain a receptacle containing fluid for delivery to the patient intravenously.~~ comprises of a hook assembly attached to an end of a support rod, wherein the hook assembly comprises a hook from which receptacles containing medical fluids may be supported and wherein the support rod is axially mounted to the second arm portion and movable with respect to the end of the second arm portion.